

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:18-cv-00635-JDB**

DEMOCRACY FORWARD FOUNDATION v. CENTERS
FOR MEDICARE & MEDICAID SERVICES

Assigned to: Judge John D. Bates

Cause: 05:552 Freedom of Information Act

Date Filed: 03/20/2018

Jury Demand: None

Nature of Suit: 895 Freedom of
Information Act

Jurisdiction: U.S. Government Defendant

Plaintiff

**DEMOCRACY FORWARD
FOUNDATION**

represented by **Benjamin M. Seel**
DEMOCRACY FORWARD
FOUNDATION
P.O. Box 34553
Washington, DC 20043
(202) 701-1793
Email: bseel@democracyforward.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Adam Anderson Grogg
U.S. HOUSE OF REPRESENTATIVES
Office of General Counsel
219 Cannon House Office Building
Washington, DC 20515
(202) 225-9700
Email: adam.grogg@mail.house.gov
TERMINATED: 08/14/2019

Javier M. Guzman
DEMOCRACY FORWARD
FOUNDATION
P.O. Box 34553
Washington, DC 20043
(202) 448-9090
Email: jguzman@democracyforward.org
TERMINATED: 11/26/2019

V.

Defendant

**CENTERS FOR MEDICARE &
MEDICAID SERVICES**

represented by **Jeremy S. Simon**
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-2528
Fax: (202) 252-2599
Email: jeremy.simon@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
03/20/2018	<u>1</u>	COMPLAINT against CENTERS FOR MEDICARE & MEDICAID SERVICES (Filing fee \$ 400 receipt number 0090-5380966) filed by DEMOCRACY FORWARD FOUNDATION. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Civil Cover Sheet, # <u>3</u> Summons, # <u>4</u> Summons, # <u>5</u> Summons)(Guzman, Javier) (Entered: 03/20/2018)

03/20/2018	<u>2</u>	LCvR 7.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by DEMOCRACY FORWARD FOUNDATION (Guzman, Javier) (Entered: 03/20/2018)
03/20/2018		Case Assigned to Judge John D. Bates. (zsth) (Entered: 03/23/2018)
03/23/2018	<u>3</u>	SUMMONS (3) Issued Electronically as to CENTERS FOR MEDICARE & MEDICAID SERVICES, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice and Consent)(zsth) (Entered: 03/23/2018)
04/02/2018	<u>4</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. CENTERS FOR MEDICARE & MEDICAID SERVICES served on 3/26/2018, RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 03/26/2018., RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 3/26/2018. (Answer due for ALL FEDERAL DEFENDANTS by 4/25/2018.) (Attachments: # <u>1</u> Declaration)(Guzman, Javier) (Entered: 04/02/2018)
04/25/2018	<u>5</u>	ANSWER to Complaint by CENTERS FOR MEDICARE & MEDICAID SERVICES.(Simon, Jeremy) (Entered: 04/25/2018)
05/16/2018	<u>6</u>	ORDER directing the parties to propose a briefing schedule. See text of Order for details. Signed by Judge John D. Bates on 5/16/2018. (lcjdb1) (Entered: 05/16/2018)
05/17/2018		Set/Reset Deadlines: Proposed Briefing Schedule due by 6/15/2018. (tb) (Entered: 05/17/2018)
06/13/2018	<u>7</u>	Joint STATUS REPORT by CENTERS FOR MEDICARE & MEDICAID SERVICES. (Simon, Jeremy) (Entered: 06/13/2018)
06/13/2018		MINUTE ORDER: Upon consideration of <u>7</u> the parties' joint status report, and the entire record herein, it is hereby ORDERED that the parties shall submit another joint status report and, if necessary, a proposed briefing schedule by not later than Thursday, August 23, 2018. Signed by Judge John D. Bates on 6/13/2018. (lcjdb1) (Entered: 06/13/2018)
06/13/2018		Set/Reset Deadlines: Joint Status Report due by 8/23/2018. (tb) (Entered: 06/13/2018)
08/21/2018	<u>8</u>	Joint STATUS REPORT by CENTERS FOR MEDICARE & MEDICAID SERVICES. (Simon, Jeremy) (Entered: 08/21/2018)
08/24/2018		MINUTE ORDER: Upon consideration of <u>8</u> the parties' joint status report, and the entire record herein, it is hereby ORDERED that the parties shall submit another joint status report and, if necessary, a proposed briefing schedule by not later than Thursday, September 13, 2018. Signed by Judge John D. Bates on 8/24/2018. (lcjdb1) (Entered: 08/24/2018)
08/24/2018		Set/Reset Deadlines: Another Joint Status Report and, if necessary, a Proposed Briefing Schedule is due by 9/13/2018. (jth) (Entered: 08/26/2018)
09/13/2018	<u>9</u>	Joint STATUS REPORT by CENTERS FOR MEDICARE & MEDICAID SERVICES. (Simon, Jeremy) (Entered: 09/13/2018)
09/13/2018		MINUTE ORDER: Upon consideration of <u>9</u> the parties' joint status report, and the entire record herein, it is hereby ORDERED that the parties shall submit another joint status report and, if necessary, a proposed briefing schedule by not later than Wednesday, November 7, 2018. Signed by Judge John D. Bates on 9/13/2018. (lcjdb1) (Entered: 09/13/2018)
09/14/2018		Set/Reset Deadlines: Joint Status Report due by 11/7/2018. (tb) (Entered: 09/14/2018)
11/01/2018	<u>10</u>	Joint STATUS REPORT by DEMOCRACY FORWARD FOUNDATION. (Grogg, Adam) (Entered: 11/01/2018)
11/01/2018		MINUTE ORDER: Upon consideration of <u>10</u> the parties' joint status report, and the entire record herein, it is hereby ORDERED that the parties shall submit another joint status report and, if necessary, a proposed briefing schedule by not later than Monday, November 19, 2018. Signed by Judge John D. Bates on 11/1/18. (lcjdb1) (Entered: 11/01/2018)

11/01/2018		Set/Reset Deadlines: Joint Status Report due by 11/19/2018. (dot) (Entered: 11/05/2018)
11/19/2018	<u>11</u>	Joint STATUS REPORT <i>and Proposed Briefing Schedule</i> by CENTERS FOR MEDICARE & MEDICAID SERVICES. (Simon, Jeremy) (Entered: 11/19/2018)
11/19/2018	<u>12</u>	SCHEDULING ORDER. See text of Order for details. Signed by Judge John D. Bates on 11/19/18. (lcjdb1) (Entered: 11/19/2018)
11/20/2018		Set/Reset Deadlines: Cross Motion due by 1/14/2019. Response to Cross Motions due by 2/11/2019. Reply to Cross Motion due by 2/25/2019. Summary Judgment motion due by 12/18/2018. Response to Motion for Summary Judgment due by 1/14/2019. Reply to Motion for Summary Judgment due by 2/11/2019. (tb) (Entered: 11/20/2018)
12/17/2018	<u>13</u>	Consent MOTION for Extension of Time to <i>File Motion for Summary Judgment and for Adjustment of Related Deadlines</i> by CENTERS FOR MEDICARE & MEDICAID SERVICES (Attachments: # <u>1</u> Proposed Order)(Simon, Jeremy) (Entered: 12/17/2018)
12/17/2018	<u>14</u>	ORDER granting <u>13</u> defendant's consent motion for extension of time to file. See text of Order for details. Signed by Judge John D. Bates on 12/17/18. (lcjdb1) (Entered: 12/17/2018)
12/19/2018		Set/Reset Deadlines: Cross Motion due by 2/12/2019. Response to Cross Motion due by 3/7/2019. Reply to Cross Motion due by 3/21/2019. Summary Judgment motion due by 1/15/2019. Response to Motion for Summary Judgment due by 2/12/2019. Reply to Motion for Summary Judgment due by 3/7/2019. (tb) (Entered: 12/19/2018)
01/16/2019	<u>15</u>	Consent MOTION to Stay , Consent MOTION for Extension of Time to <i>Summary Judgment Motion Nunc Pro Tunc</i> by CENTERS FOR MEDICARE & MEDICAID SERVICES (Attachments: # <u>1</u> Text of Proposed Order)(Pfaffenroth, Peter) (Entered: 01/16/2019)
01/17/2019		MINUTE ORDER: Upon consideration of <u>15</u> the government's consent motion to stay case and motion for extension of time to file summary judgment motion nunc pro tunc, and the entire record herein, it is hereby ORDERED that the motions are GRANTED; it is further ORDERED that this case is STAYED pending restoration of appropriations to the defendant agency; it is further ORDERED that the parties shall file a joint status report proposing new deadlines by not later than 14 days after appropriations are restored. Signed by Judge John D. Bates on 1/17/19. (lcjdb1) (Entered: 01/17/2019)
02/07/2019	<u>16</u>	Joint STATUS REPORT by CENTERS FOR MEDICARE & MEDICAID SERVICES. (Simon, Jeremy) (Entered: 02/07/2019)
02/07/2019	<u>17</u>	ORDER lifting stay and setting briefing schedule. See text of Order for details. Signed by Judge John D. Bates on 2/7/19. (lcjdb1) (Entered: 02/07/2019)
02/12/2019		Set/Reset Deadlines: Cross Motion due by 4/15/2019. Response to Cross Motion due by 5/2/2019. Reply to Cross Motion due by 5/20/2019. Summary Judgment motion due by 3/15/2019. Response to Motion for Summary Judgment due by 4/15/2019. Reply to Motion for Summary Judgment due by 5/2/2019. (tb) (Entered: 02/12/2019)
03/15/2019	<u>18</u>	MOTION for Summary Judgment , <i>Local Rule 7(h) Statement and Supporting Memorandum</i> by CENTERS FOR MEDICARE & MEDICAID SERVICES (Attachments: # <u>1</u> Proposed Order, # <u>2</u> Declaration of Hugh Gilmore, # <u>3</u> Vaughn Index to Gilmore Declaration, # <u>4</u> Supplemental Vaughn Index to Gilmore Declaration)(Simon, Jeremy) (Entered: 03/15/2019)
04/03/2019	<u>19</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>18</u> MOTION for Summary Judgment , <i>Local Rule 7(h) Statement and Supporting Memorandum</i> by DEMOCRACY FORWARD FOUNDATION (Attachments: # <u>1</u> Text of Proposed Order)(Grogg, Adam) (Entered: 04/03/2019)
04/03/2019	<u>20</u>	ORDER granting <u>19</u> consent motion for extension of time to file response/reply. See text of Order for details. Signed by Judge John D. Bates on 4/3/19. (lcjdb1) (Entered: 04/03/2019)
05/09/2019	<u>21</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>18</u> MOTION for Summary Judgment , <i>Local Rule 7(h) Statement and Supporting Memorandum</i> by

		DEMOCRACY FORWARD FOUNDATION (Attachments: # <u>1</u> Text of Proposed Order)(Grogg, Adam) (Entered: 05/09/2019)
05/09/2019	<u>22</u>	ORDER granting <u>21</u> plaintiff's consent motion for an extension of filing deadlines. See text of Order for details. Signed by Judge John D. Bates on 5/9/19. (lcjdb1) (Entered: 05/09/2019)
06/04/2019	<u>23</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>18</u> MOTION for Summary Judgment , <i>Local Rule 7(h) Statement and Supporting Memorandum</i> by DEMOCRACY FORWARD FOUNDATION (Attachments: # <u>1</u> Text of Proposed Order)(Grogg, Adam) (Entered: 06/04/2019)
06/05/2019		MINUTE ORDER: Upon consideration of <u>23</u> plaintiffs consent motion for extension of time to respond to defendant's motion for summary judgment, and the entire record herein, it is hereby ORDERED that plaintiffs consent motion is GRANTED; and it is further ORDERED that the following schedule shall govern further proceedings: plaintiffs cross-motion for summary judgment and opposition to defendants motion for summary judgment shall be filed by not later than July 1, 2019; defendants reply and opposition shall be filed by not later than July 29, 2019; and plaintiffs reply shall be filed by not later than August 12, 2019. SO ORDERED. Signed by Judge John D. Bates on 6/5/19. (lcjdb1) (Entered: 06/05/2019)
06/07/2019		Set/Reset Deadlines: Cross Motion due by 7/1/2019. Response to Cross Motion due by 7/29/2019. Reply to Cross Motion due by 8/12/2019. Response to Motion for Summary Judgment due by 7/1/2019. Reply to Motion for Summary Judgment due by 7/29/2019. (tb) (Entered: 06/07/2019)
06/28/2019	<u>24</u>	Memorandum in opposition to re <u>18</u> MOTION for Summary Judgment , <i>Local Rule 7(h) Statement and Supporting Memorandum</i> filed by DEMOCRACY FORWARD FOUNDATION. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Statement of Facts, # <u>4</u> Text of Proposed Order)(Grogg, Adam) (Entered: 06/28/2019)
06/28/2019	<u>25</u>	Cross MOTION for Summary Judgment by DEMOCRACY FORWARD FOUNDATION (Grogg, Adam) (Entered: 06/28/2019)
07/29/2019	<u>26</u>	REPLY to opposition to motion re <u>18</u> MOTION for Summary Judgment , <i>Local Rule 7(h) Statement and Supporting Memorandum</i> filed by CENTERS FOR MEDICARE & MEDICAID SERVICES. (Attachments: # <u>1</u> Proposed Order, # <u>2</u> Supplemental Declaration of Hugh Gilmore)(Simon, Jeremy) (Entered: 07/29/2019)
07/29/2019	<u>27</u>	Memorandum in opposition to re <u>25</u> Cross MOTION for Summary Judgment (<i>duplicate of docket entry number 26</i>) filed by CENTERS FOR MEDICARE & MEDICAID SERVICES. (Attachments: # <u>1</u> Proposed Order, # <u>2</u> Supplemental Declaration of Hugh Gilmore)(Simon, Jeremy) (Entered: 07/29/2019)
08/12/2019	<u>28</u>	REPLY to opposition to motion re <u>25</u> Cross MOTION for Summary Judgment filed by DEMOCRACY FORWARD FOUNDATION. (Grogg, Adam) (Entered: 08/12/2019)
08/14/2019	<u>29</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Benjamin M. Seel on behalf of DEMOCRACY FORWARD FOUNDATION Substituting for attorney Adam Grogg (Seel, Benjamin) (Entered: 08/14/2019)
11/26/2019	<u>30</u>	NOTICE OF WITHDRAWAL OF APPEARANCE as to DEMOCRACY FORWARD FOUNDATION. Attorney Javier M. Guzman terminated. (Guzman, Javier) (Entered: 11/26/2019)
11/27/2019	<u>31</u>	MEMORANDUM OPINION. Signed by Judge John D. Bates on 11/27/2019. (lcjdb1) (Entered: 11/27/2019)
11/27/2019	<u>32</u>	ORDER granting in part and denying in part <u>18</u> Motion for Summary Judgment; denying <u>25</u> Motion for Summary Judgment. See text of Order for details. Signed by Judge John D. Bates on 11/27/2019. (lcjdb1) (Entered: 11/27/2019)
11/27/2019		Set/Reset Deadlines: The following three round briefing schedule will govern further proceedings: 1. Defendant shall file (1) a renewed motion for summary judgment and (2) a supplemental declaration addressing segregability and the documents involving Bret O'Donnell by 12/18/2019; 2. Plaintiff shall file an opposition thereto and cross-motion for summary judgment by 1/6/2020; 3. Defendant shall file an

		opposition to plaintiff's cross-motion for summary judgment by 1/17/2020. (jth) (Entered: 12/01/2019)
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